

REMARKS

STATUS OF THE CLAIMS

Claims 7-20 were pending in this application, claims 1-3 having been withdrawn in the earlier response. Claims 17-20 have been withdrawn with this amendment. Following entry of the amendments claims 7-16 will be pending and at issue.

ELECTION/RESTRICTION REQUIREMENT

In the 03/06/2006 Office Action, the Examiner required restriction to one of two inventions:

Group I. claims 1-3 and 17-20, and

Group II. claims 7-16.

In response to the restriction requirement of I and II, Applicant elects Group II, claims 7-16 without traverse.

The Examiner also required restriction to a total of no more than 10 sequences for examination. Applicant traverses this restriction to no more than 10 sequences. The pending claims are method claims requiring the detection of both of 2 sequences, SEQ ID NO:4 and SEQ ID NO:8, as recited in claim 7. Claims 8-16 ultimately depend on claim 7; all require detection of both SEQ ID NO:4 and SEQ ID NO:8. Claim 9 recites a specific group of primer/probe sets to be used in the method for detection of both sequences. Claim 11 recites an additional group of primer/probe sets to be used to be used in the method for detection of other sequences in addition to SEQ ID NO:4 and SEQ ID NO:8.

Applicant believes that the pending claims should be examined as described in MPEP 803.04 under the heading “EXAMPLES OF NUCLEOTIDE SEQUENCE CLAIMS” in a manner similar to Example B. Example B is a claim that reads “a combination of DNA fragments comprising SEQ ID Nos. 1-1,000.” The MPEP describes examination of this claim as follows:

Applications claiming only a combination of nucleotide sequences, such as set forth in example (B), will generally not be subject to a restriction requirement. The presence of one novel and nonobvious sequence within the combination will render the entire combination allowable. The combination will be searched until one nucleotide sequence is found to be

allowable. The order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual nucleotide sequence is found to be allowable, the examiner will consider whether the combination of sequences taken as a whole renders the claim allowable.

In the event that the Examiner maintains the restriction requirement of no more than 10 sequences, Applicant elects with traverse the eight recited Amplicon sequences of SEQ ID NO:4, SEQ ID NO:8, SEQ ID NO:12, SEQ ID NO:16, SEQ ID NO:20, SEQ ID NO:24, SEQ ID NO:28, and SEQ ID NO:32. Claims 7-16 are encompassed by the election of SEQ ID NO:4 and SEQ ID NO:8; claims 10, 11, 12, 14, and 16 are encompassed by the election of all eight sequences.

CONCLUSION

Entry of the amendments and examination of the claims is respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicant's representative at (925) 422-7073.

Respectfully submitted,

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